

REMARKS**Summary of the Office Action**

Claims 11, 13, 14, 16, 17, 20, 22, 24-26, 28, 30-32, and 34 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,940,364 to *Ogata, et al.* (hereinafter "*Ogata*").

The Examiner is thanked for the indication that claims 12, 15, 18, 19, 21, 23, 27, 29 and 33 are allowable over the prior art of record.

Summary of the Response to the Office Action

Applicants amend claims 11-13, 22-24, 27-30, 33-34 and added new claims 35-37 to further define the subject matter of the present invention. Accordingly, claims 11-37 are presently pending in this application.

All Claims are Allowable

Claims 11, 13, 14, 16, 17, 20, 22, 24-26, 28, 30-32, and 34 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by *Ogata*. This rejection is respectfully traversed.

Applicants respectfully submit that the Office Action has not established that *Ogata* anticipates each and every feature of Applicants' claimed invention and that all rejections under 35 U.S.C. § 102(b) should be withdrawn. Namely, Applicants contend that newly amended independent claims 11, 22, 28, and 34 recite the feature of "all pits forming the phase pit string have identical widths in a direction perpendicular to a meandering line formed by the phase pit string." At least this feature is not disclosed or taught by *Ogata*.

Ogata discloses an optical disk having intermittent spiral guiding grooves composed of a pit array, wherein each guiding groove has a wobbling side wall at either side, so that the pit array is used as a data reproduce-only area and spaces between the adjacent guiding grooves are

used as a data recordable area. See *Ogata* at Abstract. However, *Ogata* fails to teach or suggest at least the above feature of independent claims 11, 22, 28, and 34.

The Office Action alleges that *Ogata* discloses “a second area (211 or 212) where a phase pit string corresponding to control data is arranged meanderingly (Fig. 15a).” Applicants respectfully submit that *Ogata* merely discloses an optical disk comprising guiding grooves which is composed of pits, the guiding grooves having a pair of side walls, only one side of the walls being wobbled. That is, in *Ogata*, a pit array is not arranged meanderingly because one side of the pit array is arranged in a circle circumscribed by a straight line. *Ogata* merely changes the width of each pit so that one side of the walls is wobbled. Therefore, as clearly described in FIGS. 1a, 15a of *Ogata*, when a pit is formed in a place having the narrowest width, its area becomes extremely small. As a result, sensitivity about a detection of the pit extremely deteriorates.

In the present invention, both sides of the phase pits are meandered so that all phase pits have identical widths as shown in FIG. 3. Therefore, sensitivity about a detection of the pit does not deteriorate. *Ogata* does not disclose at least this feature recited in newly amended claims 11, 22, 28, and 34.

As pointed out in MPEP § 2131, a claim is anticipated by a prior art reference only if each and every element as set forth in the claim is found. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051 (Fed. Cir. 1987). Therefore, Applicants respectfully assert that the rejection under 35 U.S.C. § 102(b) should be withdrawn because *Ogata* does not teach or suggest each feature of newly amended independent claims 11, 22, 28, and 34.

Additionally, Applicants respectfully submit that dependent claims 13, 14, 16, 17, 20, 24-26, and 30-32 are also allowable insofar as they recite the patentable combinations of features

recited in independent claims 11, 22, 28, and 34, as well as reciting additional features that further distinguish over the applied references of record.

New claims 35-37 are also allowable for the same patentable combination of features recited independent claims 11, 28, and 34, as well as reciting additional features that further distinguish over the applied references of record.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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